

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:07-CR-00134-FDW-4

GEMINI BOYD,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

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ORDER

THIS MATTER comes now before the Court upon Petitioner's Motion for Reconsideration (Doc. No. 273) regarding this Court's Order of October 10, 2007 (Doc. No. 272) denying Petitioner's Motion to Modify Sentence pursuant to 18 U.S.C. § 3582(c)(2) (Doc. No. 270). Petitioner's Motion for Reconsideration is DENIED.

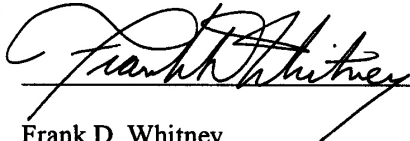
For purposes of Petitioner's renewed § 3582(c)(2) motion, the Court considers it sufficient to state that it has reviewed Petitioner's case and has considered the factors in 18 U.S.C. § 3553(a). Having done so, the Court chooses not to exercise its discretion to reduce Petitioner's sentence. Contrary to Petitioner's suggestion that the Court must identify the § 3553(a) factors that it considers inapplicable or inconsistent with a sentence reduction, the United States Court of Appeals for the Fourth Circuit has held that such a "ritualistic incantation" is unnecessary. United States v. Legree, 205 F.3d 724, 727-28 (4th Cir. 2000). Rather, "[i]t is sufficient if . . . the district court rules on issues that have been fully presented for determination. Consideration is implicit in the court's ultimate ruling." Id. (quoting United States v. Davis, 53 F.3d 638, 642 (4th Cir. 1995)); see also United States v. Johnson, 138 F.3d 115, 119 (4th Cir. 1998) (stating that such a mandatory listing

would change sentencing into a “hyper-technical exercise devoid of common sense,” something Congress never intended). Finally, the Court need not hold a hearing when considering a § 3582(c) motion. Legree, 205 F.3d at 730.

Therefore, for the reasons stated here and in the Court’s previous Order, Petitioner’s Motion for Reconsideration is hereby DENIED.

IT IS SO ORDERED.

Signed: October 23, 2007


Frank D. Whitney
United States District Judge

